

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 02-4090

United States of America,

Appellee,

v.

Doris McKinney,

Appellant.

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Appeal from the United States
District Court for the Eastern
District of Missouri.

[UNPUBLISHED]

Submitted: August 13, 2003
Filed: August 22, 2003

Before BYE, BOWMAN, and MELLOY, Circuit Judges.

PER CURIAM.

Doris McKinney appeals her conviction and sentence. A jury found McKinney guilty of executing a scheme to defraud a financial institution. See 18 U.S.C. § 1344 (2000). The District Court¹ sentenced McKinney to one month of imprisonment and five years of supervised release, with the condition that she participate in a home-confinement program for five months. On appeal, McKinney's counsel has moved

¹The Honorable Charles A. Shaw, United States District Judge for the Eastern District of Missouri.

to withdraw and filed a brief under Anders v. California, 386 U.S. 738, 744 (1967), arguing that the District Court erred in denying her motion for a downward departure.

The District Court's discretionary decision not to grant the downward departure is unreviewable absent an unconstitutional motive. See United States v. VanHouten, 307 F.3d 693, 696 (8th Cir. 2002). Following careful review of the record, we find no other nonfrivolous issues. See Penson v. Ohio, 488 U.S. 75, 80 (1988). Accordingly, we affirm the judgment, and we grant counsel's motion to withdraw.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.